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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

No. 74-86

CHARLES LEONARD,

Petitioner

v.

BERNARD I. STRAUSS,

As Agent For

SEVENTY-SECOND STREET PROPERTIES, INC.,

Respondent.

PETITIONER'S REPLY TO RESPONDENT'S BRIEF IN OPPOSITION TO PETITION

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POINT

THE PETITION FOR CERTIORARI IS NOT MOOT

The respondent suggests indirectly that there may be a question of mootness because petitioner elected to renew his lease for only one year.

The issue raised by such suggestion is spurious but requires a reply.

The critical right at stake in the trial below was the tenant's protection under the Rent Stabilization Code of the City of New York which is quoted in the opinion of the trial court at page A-2 of the Petition for Certiorari and which provides that:

> "No tenant, so long as he continues to pay the rent, to which the owner is entitled shall be denied a renewal lease as prescribed by this Code."

Thus, for as long as the tenant pays the rent to which the landlord is entitled, the Rent Stabilization Code which remains in effect in the City of New York* requires the

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* Local Law No. 1 of the Local Laws of the City of New York for the Year 1974, a certified copy of which is annexed hereto, extended the law to April 1, 1979.

owner to offer a renewal lease to the tenant at the end of each term.

Tenant's claim in the court below that he renewed his lease was thus a complete defense to the landlord's claim that he had lost his rights under the Rent Stabilization Code by his failure to renew. If the issues presented by the Petition of Certiorari are resolved by this Court in favor of the petitioner, he will be entitled to a jury trial on the question of whether he did or did not renew his lease and therefore preserve his rights under the Rent Stabilization Code.

If the verdict of the jury is favorable to the petitioner and finds that he did renew his lease, then petitioner will be entitled to renewal leases for the intervening terms* and a renewal lease commencing October 1, 1974.

* Section 60 of the Rent Stabilization Code of the City of New York requires the landlord to make a written offer to renew the tenant's lease for a one, two or three year term so long as he continues to pay the rent to which the landlord is entitled.

It is not disputed by respondent that the petitioner has continued to pay the rent to which the landlord has been entitled during the pendency of this case. In fact he has done so in accordance with the court order setting the petitioner's undertaking during the pendency of this appeal. Each rent check paid pursuant to said court order has been hand delivered to petitioner's attorneys and hand delivered by them to the landlord's agent or attorney.

Respectfully submitted,

HAWKINS, DELAFIELD & WOOD

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John F. Triggs

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1974

No. 1

Introduced by Mrs. Ryan (By request of Mayor)—Passed under a Message of Necessity.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to continuing the stabilization of rents in certain housing accommodations.

Be it enacted by the Council as follows:

Section 1. Section YY51-1.0 of the administrative code of the city of New York, as added by local law number sixteen for the year nineteen hundred sixty-nine, is hereby amended to read as follows:

§ YY51-1.0. **Findings and declaration of emergency.**—The council hereby finds that a serious public emergency continues to exist in the housing of a considerable number of persons within the city of New York and will continue to exist after April first, nineteen hundred seventy-four; that such emergency necessitated the intervention of federal, state and local government in order to prevent speculative, unwarranted and abnormal increases in rents; that there continues to exist an acute shortage of dwellings which creates a special hardship to persons and families occupying rental housing; that the legislation enacted in nineteen hundred seventy-one by the state of New York removing controls on housing accommodations as they become vacant, has resulted in sharp increases in rent levels in many instances; that the existing and proposed cuts in federal assistance to housing programs threaten a virtual end to the creation of new housing thus prolonging the present emergency; that unless residential rents and evictions continue to be regulated and controlled, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; that to prevent such perils to health, safety and welfare, preventive action by the council continues to be imperative; that such action is necessary in order to prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to the public health, safety and general welfare; that the transition from regulation to a normal market of free bargaining between landlord and tenant, while still the objective of state and city policy, must be administered with due regard for such emergency;

—and that the policy herein expressed is now administered locally within the city of New York by an agency of the city itself, pursuant to the authority conferred by chapter twenty-one of the laws of nineteen hundred sixty-two.

The council further finds that prior to the adoption of local laws sixteen and fifty-one of nineteen hundred sixty-nine many owners of housing accommodations in multiple

dwellings not subject to the provisions of the city rent and rehabilitation law, enacted pursuant to said enabling authority, either because they were constructed after nineteen hundred forty-seven or because they were decontrolled due to monthly rental of two hundred fifty dollars or more or for other reasons were demanding exorbitant and unconscionable rent increases as a result of the aforesaid emergency which led to a continuing restriction of available housing as evidenced by the nineteen hundred sixty-eight vacancy survey by the United States bureau of the census; that prior to the enactment of said local laws such increases were being exacted under stress of prevailing conditions of inflation and of an acute housing shortage resulting from a sharp decline in private residential construction brought about by a combination of local and national factors; that such increases and demands were causing severe hardship to tenants of such accommodations and were uprooting long-time city residents from their communities; that recent studies establish that the acute housing shortage continues to exist; that there has been a further decline in private residential construction due to existing and proposed cuts in federal assistance to housing programs; that unless such accommodations are subjected to reasonable rent and eviction limitations, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; and that such conditions constitute a grave emergency.

§ 2. Subdivision b of section YY51-5.0 of such code, as amended by local law number fifty-one for the year nineteen hundred sixty-nine, is hereby amended to read as follows:

b. All of the members of the board shall be appointed by the mayor, three shall be appointed for a term of two years; three for a term of three years and three until April first, nineteen hundred and seventy-nine. Their successors shall be appointed for like terms unless they shall extend beyond the date of April first, nineteen hundred seventy-nine, in which event they shall be appointed to serve only until such date. The mayor shall designate one of the members appointed to serve until April first, nineteen hundred seventy-nine, to act as chairman of the board during the pleasure of the mayor. No person may be appointed as a member of the board who owns real estate which is covered by this law or who is an officer of any tenants' organization.

§ 3. Paragraph three of subdivision b of section YY51-6.0 of such code, as amended by local law number fifty-one for the year nineteen hundred sixty-nine, is hereby amended to read as follows:

(3) the association has established a conciliation and appeals board consisting of four members representing the public, four members representing the real estate industry and an impartial chairman, all to be appointed by the mayor with the approval of the council, to serve until April first, nineteen hundred seventy-four, at which time their successors shall be appointed in like manner to serve until April first, nineteen hundred seventy-nine, to receive and act upon complaints from tenants and upon appeals from owners claiming hardship under the levels for fair rent increases adopted under this law;

§ 4. Section two of local law number sixteen for the year nineteen hundred sixty-nine is hereby amended to read as follows:

§ 2. This local law shall take effect immediately and shall expire on April first, nineteen hundred seventy-nine unless rent control shall sooner terminate as provided in subdivision three of section one of the local emergency housing rent control law.

§ 5. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 21, 1974, and approved by the Mayor on March 29, 1974.

HERMAN KATZ, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW SECTION 27

Pursuant to the provisions of Municipal Home Rule Law Section 27, I hereby certify that the enclosed local law (Local Law 1 of 1974, Council Int. 428-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on March 21, 1974: 39 for, none against.

Was approved by the Mayor on March 29, 1974.

Was returned to the City Clerk on April 1, 1974.

ADRIAN P. BURKE, Corporation Counsel.